

Assembly Bill No. 2207

Passed the Assembly August 27, 2012

Chief Clerk of the Assembly

Passed the Senate August 22, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 214.02 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2207, Gordon. Property taxation: welfare exemption: nature resources and open-space lands.

Existing property tax law, in accordance with the California Constitution, provides for a welfare exemption under which property used exclusively for religious, hospital, scientific, or charitable purposes and owned and operated by funds, foundations, or corporations meeting certain statutory requirements is exempt from taxation. Existing law also provides that property used exclusively for the preservation of specified nature resources or open-space lands meeting other specified criteria is deemed to be included within the welfare exemption.

This bill would, commencing with the 2013–14 fiscal year, provide that, for the purposes of determining whether the property is used for the actual operation of the exempt activity described above, consideration shall not be given to the use of the property for activities resulting in direct or in-kind revenues, as specified, provided that the activities further the conservation objectives of the property, or for any lease of the property for a purpose that furthers the conservation objectives of the property, as provided. This bill would also make a technical, nonsubstantive change to this provision.

By imposing new duties upon local tax officials with respect to the welfare exemption, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 214.02 of the Revenue and Taxation Code is amended to read:

214.02. (a) Except as provided in subdivision (b) or (c), property that is used exclusively for the preservation of native plants or animals, biotic communities, geological or geographical formations of scientific or educational interest, or open-space lands used solely for recreation and for the enjoyment of scenic beauty, is open to the general public subject to reasonable restrictions concerning the needs of the land, and is owned and operated by a scientific or charitable fund, foundation, limited liability company, or corporation, the primary interest of which is to preserve those natural areas, and that meets all the requirements of Section 214, shall be deemed to be within the exemption provided for in subdivision (b) of Sections 4 and 5 of Article XIII of the Constitution of the State of California and Section 214.

(b) The exemption provided by this section shall not apply to any property of an organization that owns in the aggregate 30,000 acres or more in one county that were exempt under this section prior to March 1, 1983, or that are proposed to be exempt, unless the nonprofit organization that holds the property is fully independent of the owner of any taxable real property that is adjacent to the property otherwise qualifying for tax exemption under this section. For purposes of this section, the nonprofit organization that holds the property shall be considered fully independent if the exempt property is not used or operated by that organization or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor or

bondholder of the exempt organization or operator, or the owner of any adjacent property, or any other person, through the distribution of profits, payment of excessive charges or compensations, or the more advantageous pursuit of their business or profession.

(c) The exemption provided by this section shall not apply to property that is reserved for future development.

(d) (1) For the purposes of determining whether the property is used for the actual operation of the exempt activity as required by subdivision (a), consideration shall not be given to the use of the property for either of the following:

(A) Activities resulting in direct or in-kind revenues provided that the activities further the conservation objectives of the property as provided in a qualified conservation management plan for the property. These revenues include those revenues derived from grazing leases, hunting and camping permits, rents from persons performing caretaking activities who reside in dwellings on the property, and admission fees collected for purposes of public enjoyment.

(B) Any lease of the property for a purpose that furthers the conservation objectives of the property as provided in a qualified conservation management plan for the property.

(2) The activities and lease described in paragraph (1) may not generate unrelated business income.

(3) For purposes of this subdivision, a “qualified conservation management plan” means a plan that satisfies all of the following:

(A) Identifies both of the following:

(i) That the foremost purpose and use of the property is for the preservation of native plants or animals, biotic communities, geological or geographical formations of scientific or educational interest, or as open-space lands used solely for recreation and for the enjoyment of scenic beauty.

(ii) The overall conservation management goals, including, but not limited to, identification of permitted activities, and actions necessary to achieve the goals.

(B) Describes both of the following:

(i) The natural resources and recreational attributes of the property.

(ii) Potential threats to the conservation values or areas of special concern.

(C) Contains a timeline for planned management activities and for regular inspections of the property, including existing structures and improvements.

(e) This section shall be operative from the lien date in 1983 to and including the lien date in 2022, after which date this section shall become inoperative, and as of January 1, 2023, this section is repealed.

(f) The amendments made by Section 4 of Chapter 354 of the Statutes of 2004 shall apply with respect to lien dates occurring on and after January 1, 2005.

(g) The amendments made to this section by the act adding this subdivision shall apply commencing with the lien date for the 2013–14 fiscal year.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

Approved _____, 2012

Governor